

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SGA GLOBAL, LLC,

Plaintiff,

v.

Case No. 07-CV-10332-DT

SURFACE COATINGS CO.,

Defendant.

**ORDER GRANTING IN PART PLAINTIFF'S REQUEST FOR A TEMPORARY
RESTRAINING ORDER, DIRECTING PLAINTIFF TO SERVE DEFENDANT,
AND SETTING STATUS CONFERENCE**

On January 22, 2007, Plaintiff SGA Global, LLC ("SGA") filed its Verified Complaint and "Plaintiff's Ex Parte Motion for Temporary Restraining Order and Preliminary Injunction" in the above-captioned matter. Federal Rule of Civil Procedure 65(b) provides that

A temporary restraining order may be granted without written or oral notice to the adverse party or that party's attorney only if (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting the claim that notice should not be required.

The court has determined that the requirements for issuing a temporary restraining order without notice to the adverse party under Federal Rule of Civil Procedure 65(b) are not met in this case, with one exception. Plaintiff alleges that Defendant Surface Coatings Company's ("Surface Coatings's") "willingness to conceal sales of the Additive, which it was required to report to SGA, and to intentionally and directly impinge on SGA's rights in the Additive is strong evidence that, unless

immediately restrained, Surface Coatings . . . may conceal or destroy evidence, if provided with notice of a hearing.” (Pl.’s Mot. at 4.) If Defendant were to destroy evidence, Plaintiff would be irreparably harmed, and Defendant should be enjoined from so doing.

Plaintiff’s affidavit and complaint regarding misappropriation of trade secrets, however, fails to establish that “immediate and irreparable injury, loss, or damage will result . . . before the adverse party or that party’s attorney can be heard in opposition.” Fed. R. Civ. P. 65(b)(1). Accordingly,

IT IS ORDERED that “Plaintiff’s Ex Parte Motion for Temporary Restraining Order and Preliminary Injunction” is GRANTED IN PART. Specifically, it is GRANTED with respect to Plaintiff’s request that Defendant be restrained and enjoined from concealing or destroying evidence relating to Plaintiff’s patented products and trade secrets until February 2, 2007, or earlier order of this court, and the motion for a temporary restraining order is otherwise DENIED.

Plaintiff is DIRECTED to serve Defendant with all the pleadings in this case, including this order, by **Friday, January 26, 2007**. The court will conduct an in-person status conference with the attorneys in this case on **February 2, 2007 at 10:00 a.m.** Party representatives with full settlement authority are DIRECTED to appear. The court will discuss scheduling issues, including the scheduling of a preliminary injunction hearing. The parties should independently consider what possibility there may be of an amicable resolution of the issues implicated in the case.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: January 23, 2007

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, January 23, 2007, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522
